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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

ROBERT HART,

Defendant and Appellant.

B217619

(Los Angeles County  
Super. Ct. No. BA 355276)

APPEAL from a judgment of the Superior Court of Los Angeles County.  
Stephen A. Marcus, Judge. Affirmed.

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Julie Schumer, under appointment by the Court of Appeal, for Defendant and  
Appellant.

No appearance for Plaintiff and Respondent.  
\_\_\_\_\_

We appointed counsel to represent appellant in this matter. After examining the record, counsel filed a “*Wende*” brief raising no issues on appeal and requesting that we independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) We directed appointed counsel to immediately send the record on this appeal and a copy of the opening brief to appellant and notified appellant that within 30 days from the date of the notice he could submit by brief or letter any grounds of appeal, contentions or argument he wished us to consider. We received no response from appellant.

We have examined the entire record and are satisfied that appellant’s attorney has fully complied with her responsibilities and that no arguable issue exists. (*People v. Wende, supra*, 25 Cal.3d at p. 441.) We set out below a brief description of the facts and procedural history of the case, the crimes of which the appellant was convicted, and the punishment imposed. (*People v. Kelly* (2006) 40 Cal.4th 106, 110.)

Hart was arrested for carjacking. While he was being booked, officers found marijuana hidden in his buttocks. He was charged with possession of an illegal substance in a jail facility, a felony. Hart spent 97 days in pretrial custody. Eventually the carjacking charge was dismissed. Prior to trial on the felony drug charge, the People agreed to allow Hart to plead guilty to possession of pot, a misdemeanor. The People informed Hart the maximum penalty was a \$100 fine and Hart said he understood.

After the court took the guilty plea and imposed the \$100 fine, Hart’s attorney requested that Hart’s time in custody be applied against the fine under Penal Code section 2900.5, subdivision (a). The court denied that request. The court stated that based on Hart’s record, “[t]he only reason I agreed to the deal is there’s a hundred dollar fine.” When counsel insisted on the credit the court responded: “Then I won’t take the plea bargain.” At that point Hart conferred with his attorney and the attorney announced: “Mr. Hart indicates that he would rather get out; so he wants to pay the fine.”

Hart filed a notice of appeal challenging “the court’s refusal, notwithstanding Penal Code section 2900.5, to give the defendant custody credit against the fine of \$100.00.”

We conclude this is not an arguable issue.

The judgment is affirmed.

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ROTHSCHILD, Acting P. J.

We concur:

CHANEY, J.

JOHNSON, J.